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BEFORE THE ARIZONA CORPORATION COMMISSION

2001 AUG 14 P 12:53

WILLIAM A. MUNDELL  
Chairman  
JIM IRVIN  
Commissioner  
MARC SPITZER  
Commissioner

AZ CORP COMMISSION  
DOCUMENT CONTROL

In the matter of:

DOCKET NO. S-03463A-01-0000

DAVID NUTTER  
CRD #2346911

5353 N. 16<sup>th</sup> Street, #260  
Phoenix, Arizona 85016

NORTH AMERICAN INSURANCE  
SERVICES, L.L.C.  
5353 N. 16<sup>th</sup> Street, #260  
Phoenix, Arizona 85016,

Respondents.

**NOTICE OF OPPORTUNITY FOR  
HEARING REGARDING PROPOSED  
ORDER TO CEASE AND DESIST, FOR  
RESTITUTION, FOR  
ADMINISTRATIVE PENALTIES, AND  
FOR OTHER AFFIRMATIVE ACTION**

**NOTICE: RESPONDENTS HAVE 10 DAYS TO REQUEST A HEARING**

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that Respondents have engaged in acts, practices and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act").

**I.**

**JURISDICTION**

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

**II.**

**RESPONDENTS**

2. DAVID NUTTER ("NUTTER"), CRD #2346911, whose last known business address was 5353 N. 16<sup>th</sup> Street, #260, Phoenix, Arizona, 85016, was a registered securities

1 salesman from 1997 through 1999. NUTTER is also a registered insurance agent and has been  
2 since 1994.

3 3. NORTH AMERICAN INSURANCE SERVICES, L.L.C. ("NORTH  
4 AMERICAN"), whose last known business address was 5353 N. 16<sup>th</sup> Street, #260, Phoenix,  
5 Arizona, 85016, has been an Arizona limited liability company since 1997. NUTTER is the  
6 managing member of NORTH AMERICAN.

7 4. NUTTER and NORTH AMERICAN may be collectively referred to as  
8 "RESPONDENTS".

### 9 III.

### 10 FACTS

11 5. Beginning in December of 1997, RESPONDENTS offered and sold promissory  
12 notes to at least 16 people who invested at least \$750,000. The promissory notes were from one  
13 to three years in duration and paid an interest rate of 10% to 12%. RESPONDENTS have repaid  
14 approximately \$150,000 of principal and interest as scheduled. As of the date of this Notice,  
15 RESPONDENTS owe 12 people approximately \$610,000. The due dates on the notes go through  
16 2004.

17 6. RESPONDENTS borrowed funds from their clients and issued promissory notes  
18 with the term of the notes and the interest rate of the notes varying depending upon the client. The  
19 notes state that each note was secured by the assets and accounts receivable of NORTH  
20 AMERICAN and NUTTER as its managing member. RESPONDENTS did not provide any  
21 financial information to clients regarding the assets and accounts receivable of NORTH  
22 AMERICAN.

23 7. NUTTER stated that the funds were used to continue the business while he attended  
24 educational seminars to expand the options for his clients. Specifically, NUTTER stated that the  
25 funds were used to pay for the seminars, traveling to the seminars, and to make up for the lost  
26 commissions while he was in training.

8. RESPONDENTS did not clearly disclose to investors the true purpose of the loans. At least one investor believed the funds were to be used to purchase businesses that were going out of business and RESPONDENTS borrowed the needed funds from their clients instead of the bank. Most investors do not know how their funds were to be used.

9. NUTTER sold a number of promissory notes while he was a registered securities salesman. NUTTER failed to disclose to his employing dealer his sales activity. NUTTER continued to sell the promissory notes after he terminated his securities registration.

#### IV.

**VIOLATION OF A.R.S. § 44-1841**

**(Offer or Sale of Unregistered Securities)**

10. From on or about December of 1997 through April of 2001, RESPONDENTS offered or sold securities in the form of promissory notes, within or from Arizona.

11. The securities referred to above were not registered pursuant to Articles 6 or 7 of the Securities Act.

12. This conduct violates A.R.S. § 44-1841.

**V.**

**VIOLATION OF A.R.S. § 44-1842**

**(Transactions by Unregistered Dealers or Salesmen)**

13. From January of 2000 through April of 2001, RESPONDENTS offered or sold securities within or from Arizona while not registered as dealers or salesmen pursuant to Article 9 of the Securities Act.

14. This conduct violates A.R.S. § 44-1842.

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**VI.**

**VIOLATION OF A.R.S. § 44-1991**

**(Fraud in Connection with the Offer or Sale of Securities)**

15. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts which were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon offerees and investors. RESPONDENTS conduct includes, but is not limited to, the following:

- a) RESPONDENTS failed to provide any disclosure documents to the offerees and investors in the promissory note program including but not limited to disclosures regarding risk, use of funds and the financial condition of RESPONDENTS.
- b) RESPONDENTS failed to disclose to offerees and investors that the promissory notes they were selling were not approved by NUTTER's employing dealer nor had NUTTER informed his employer about the existence of the notes.
- c) RESPONDENTS failed to disclose to offerees and investors that by issuing the promissory notes, they were violating industry standards which finds that it is a dishonest and unethical practice for a securities salesman to borrow money from his clients.

16. This conduct violates A.R.S. § 44-1991.

**VII.**

**REQUESTED RELIEF**

The Division requests that the Commission grant the following relief against RESPONDENTS:

1. Order RESPONDENTS to permanently cease and desist from violating the Securities Act, pursuant to A.R.S. § 44-2032;

2. Order RESPONDENTS to take affirmative action to correct the conditions resulting from their acts, practices or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;

3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;

4. Order any other relief that the Commission deems appropriate.

## VIII.

## HEARING OPPORTUNITY

RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. A request must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. RESPONDENTS or their attorney must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at [www.cc.state.az.us/utility/forms/index.htm](http://www.cc.state.az.us/utility/forms/index.htm).

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order against RESPONDENTS granting the relief requested by the Division in this Notice of Opportunity for Hearing.

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1 Persons with a disability may request a reasonable accommodation such as a sign language  
2 interpreter, as well as request this document in an alternative format, by contacting Shelly M.  
3 Hood, ADA Coordinator, voice phone number 602/542-3931, e-mail [shood@cc.state.az.us](mailto:shood@cc.state.az.us).  
4 Requests should be made as early as possible to allow time to arrange the accommodation.

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6 Dated this 14<sup>th</sup> day of August, 2001.

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9 Mark Sendrow  
10 Director of Securities  
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# Memorandum

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2001 AUG 14 P 12: 53

DATE: August 14, 2001

TO: Nancy Cole  
Docket Control

AZ CORP COMMISSION  
DOCUMENT CONTROL

FROM: Wendy Coy  
Securities Division

RE: David Nutter and North American Insurance Services,  
L.L.C.  
Docket No. S-03463A-01-0000  
Assigned Staff

CC: Mabel Aldridge

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This is to notify you that the following individuals have been assigned to the above-mentioned case.

- ☒ Mark Sendrow
- ☒ LeRoy Johnson
- ☐ Matthew Neubert

Wendy Coy (Staff Attorney)

Terry Nelson (Staff Investigator)

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Note: The Assistant Attorney General assigned to this matter is: Moira McCarthy.